

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

MERCHANT CAPITAL, LLC, and)	
NEW SUNSHINE, LLC)	
)	
Plaintiffs,)	
)	
v.)	CASE NO. 1:13-cv-0873-JMS-DML
)	
MELANIA MARKS SKINCARE, LLC)	
)	
Defendant.)	

MELANIA MARKS SKINCARE, LLC'S
PRELIMINARY WITNESS AND EXHIBIT LIST

COMES NOW Melania Marks Skincare, LLC, by counsel, and respectfully submits its Preliminary Witness and Exhibits Lists pursuant to the Case Management Plan previously approved by the Court.

PRELIMINARY WITNESS LIST

1. Jonathon E. Gross
Assistant General Counsel (former)
The Trump Organization
725 Fifth Avenue
New York, NY 10022
2. Scott Matthews
General Counsel and Senior Vice President/Executive Director
of Branding (former)
New Sunshine, LLC
Indianapolis, Indiana
Present address: 8342 Tequista Circle, Indianapolis, Indiana

3. Eric Weber
President (former)
New Sunshine, LLC
Indianapolis, Indiana
Present address: To be disclosed promptly upon determination.
4. Melania Trump
Melania Marks Skincare, LLC
725 Fifth Avenue
New York, NY 10022
5. Matthew Cotton
Chief Executive Officer/President
New Sunshine, LLC
Indianapolis, Indiana
6. Rodney Smith
Manager, Merchant Capital, LLC
Eau Claire, Wisconsin
7. Cathy Hoffman Glosser
Executive Vice President, Global Licensing
The Trump Organization
725 Fifth Avenue
New York, NY 10022
8. James Anderson
General Counsel/In-House Corporate Counsel
Menards, Inc.
Eau Claire, Wisconsin
9. Any person identified on the Preliminary Witness List of either Plaintiff.
10. Any person whose deposition is taken in this case.
11. Any person who is necessary to authenticate a document which is to be offered into evidence if authentication is not stipulated.
12. Rebuttal witnesses, as necessary, none of whom have presently been determined.

PRELIMINARY EXHIBIT LIST

1. Amended Complaint, with Exhibits.
2. Answer to Amended Complaint.

3. Affidavit of Matthew Cotton filed in this case.
4. Affidavit of Rodney Smith filed in this case.
5. November 14, 2012 e-mail from Ronald Lieberman to Scott Matthews, re: insurance.
6. November 13, 2012 e-mail from Jonathon Gross to Scott Matthews, and related e-mail chain , re: execution of Agreement, and payment.
7. November 14, 2012 e-mail from Scott Matthews to Jonathon Gross, re: completed Agreement.
8. November 12, 2012 e-mail chain between Scott Matthews and Jonathon Gross, re: executed Agreement.
9. Various versions of the License Agreement, as negotiated between the parties, showing negotiated revisions.
10. November 9, 2012 e-mail exchange between Mr. Gross and Mr. Matthews.
11. November 1, 2012 e-mail exchange between Mr. Gross and Mr. Matthews.
12. Signatures to Unanimous Consent of New Sunshine, LLC Board of Managers to License Agreement With Melania Marks Skincare, LLC, with related transmittal e-mails.
13. Unanimous Written Consent to Resolutions of the Board of Managers of New Sunshine, LLC.
14. November 1, 2012 e-mail from Scott Matthews to Mr. Gross (“Let’s sign the deal and start selling documents.”).
15. Wiring instructions for payment required by the License Agreement in November 9, 2012 e-mail to Mr. Matthews from Mr. Gross.
16. Order dated March 13, 2013 from the Circuit Court of Eau Claire County, Wisconsin in Case No. 12 CV 734.
17. November 1-9, 2012 e-mail exchange concerning opening of account for wiring of payment.
18. November 1, 2012 e-mail from Scott Matthews to Jonathon Gross (“All changes are fine to the Agreement”).

19. November 1, 2012 e-mail from Jonathon Gross to Scott Matthews (Resolution of New Sunshine's Board of Managers).
20. New Sunshine's Operating Agreement.
21. October 18, 2012 e-mail from Mr. Gross to Mr. Matthews.
22. September 13, 2012 e-mail from Teresa Graham to Mr. Gross (New Sunshine Operating Agreement).
23. September 12, 2012 e-mail exchange between Mr. Matthews and Mr. Gross (Operating Agreements).
24. September 7, 2012 e-mail from Mr. Gross to Mr. Matthews, and related e-mail chain (organizational documents).
25. Operating Agreement of MH Investors Gaming, LLC provided to Mr. Gross by Mr. Matthews.
26. Operating Agreement of MH Equity Managing Member, LLC provided to Mr. Gross by Mr. Matthews.
27. Operating Agreement of MH Investors Sun, LLC provided to Mr. Gross by Mr. Matthews.
28. September 5, 2012 e-mail exchange between Mr. Matthews and Mr. Gross (negotiations of terms of Agreement).
29. August 24, 2012 e-mail from Mr. Hilbert to Ms. Glosser, with copy to Mr. Matthews.
30. March 2, 2012 e-mail from Scott Matthews to Cathy Glosser (transmission of Operating Agreements).
31. August 10, 2012 notes apparently prepared by Mr. Gross based on possible call with Mr. Matthews.
32. August 6, 2012 e-mail from Mr. Gross to Mr. Matthews (with draft of proposed Agreement, and related draft).
33. July 5, 2012 e-mail from Mr. Matthews to Mr. Gross (negotiation of Agreement's terms); related e-mail chain.
34. August 1-3, 2012 e-mail exchange between Cathy Glosser and Mr. Matthews, Stephen Hilbert, Melania Trump, and Mr. Gross (negotiation of terms).

35. July 31, 2012 e-mail to Mr. Gross (Scott Matthews' changes to proposed Agreement) with attached redline Agreement.
36. March 2, 2012 e-mail from Jonathon Gross to Scott Matthews (confirmation of this morning's meeting, with checklist of issues discussed, including confirmation that Eric Weber is president of New Sunshine and to serve as manager).
37. July 21, 2012 e-mail from Scott Matthews to Cathy Glosser.
38. July 3-5, 2012 e-mails between Scott Matthews and Cathy Glosser (negotiation of terms).
39. February 13, 2012 e-mail from Scott Matthews to Jonathon Gross (discussions of contract and proposed draft of Agreement).
40. February 2, 2012 e-mail from Mr. Matthews to Mr. Gross (negotiations).
41. January 25, 2012 e-mail exchange between Jonathon Grosser and Scott Matthews, with revised proposed Agreement.
42. January 20, 2012 e-mail from Scott Matthews to Jonathon Gross.
43. January 2012 e-mails concerning structure of the deal.
44. November 2011 e-mails concerning structure of the deal.
45. August 24, 2011 e-mails between Mr. Gross and Mr. Matthews concerning the proposed transaction.
46. Any Exhibit produced in response to formal discovery.
47. Any Exhibit on Plaintiffs' Preliminary Exhibit List.
48. Interrogatory Answers signed in this case.
49. Any deposition taken in this case, and any Exhibit to any such deposition.
50. Charts or diagrams to condense, summarize, or demonstrate facts.

Respectfully submitted,

s/ Norman T. Funk

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Counsel for Melania Marks Skincare, LLC

CERTIFICATE OF SERVICE

I hereby certify that on June 28, 2013, a copy of the foregoing **Preliminary Witness and Exhibit List of Melania Marks Skincare, LLC** was filed electronically. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

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s/ Norman T. Funk

Norman T. Funk